

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division



JAMES DIEHL

Plaintiff,

v.

ASSET ACCEPTANCE, LLC

SERVE: CT CORPORATION  
SYSTEM  
4701 Cox Rd., Ste. 301  
Richmond, VA 23060

Defendant.

CIVIL ACTION NO.

3:11CV805

**COMPLAINT**

COMES NOW the Plaintiff, James Diehl ("Diehl" or "Plaintiff"), by counsel, and as for his Complaint against the Defendant, he alleges as follows:

1. This is an action for actual and statutory damages, costs, and attorney's fees brought pursuant to 15 U.S.C. § 1692 et seq. (the Federal Fair Debt Collection Practices Act or "FDCPA").

**JURISDICTION**

2. Jurisdiction is proper pursuant to 15 U.S.C. § 1692k and 28 U.S.C. § 1331.

**PARTIES**

3. Plaintiff is a natural person and at all times relevant hereto was a "consumer" as defined and governed by the FDCPA.

4. Defendant Asset Acceptance, LLC, ("Asset Acceptance"), is a Delaware limited liability company with its principal place of business located in Warren, Michigan. It regularly

collects debts from consumers located across the Commonwealth of Virginia. At all times relevant hereto, Asset Acceptance was a “debt collector” as that term is defined by the FDCPA.

**STATEMENT OF FACTS**

5. Defendant Asset Acceptance sued Plaintiff in the General District Courts of the Commonwealth of Virginia in an attempt to collect an alleged debt.

6. Thereafter, the Court entered judgment in favor of Asset Acceptance.

7. Within the one-year period preceding the filing date of this Complaint, the Defendant abused the garnishment process and attempted to collect funds that were not awarded by the Court when it issued the underlying judgment. These actions prohibited by statute. The Defendant also made misrepresentations in furtherance of its efforts to illegally collect this money.

8. Upon information and belief, the Defendant’s post-judgment collection actions taken with regard to Virginia consumers generally were part of a pattern and practice of collecting money in excess of the underlying court judgment in violation of Virginia law. Each such instance constituted a criminal offense, a Class 1 misdemeanor, as per Virginia Code §8.01-511.

**COUNT ONE:**  
**VIOLATION OF 15 U.S.C. § 1692d(1)**

9. Plaintiff realleges and reincorporates all previous paragraphs as if fully set out herein.

10. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692d(1) by its actions, which include but are not limited to using criminal means to harm the Plaintiff.

11. As a result of these actions taken by Defendant, the Plaintiff has incurred actual

damages.

12. Plaintiff is therefore entitled to an award of actual and statutory damages against Asset Acceptance as well as his reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1692k.

**COUNT TWO:**  
**VIOLATION OF 15 U.S.C. § 1692e(2)**

13. Plaintiff realleges and reincorporates all previous paragraphs as if fully set out herein.

14. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(2) by its actions, which include but are not limited to falsely representing the amount or legal status of a debt owed.

15. As a result of these actions taken by Defendant, which include but are not limited to collection of amounts that exceeded the underlying judgment amount and/or which were not authorized by statute, Plaintiff has incurred actual damages.

16. Plaintiff is therefore entitled to an award of actual and statutory damages against Asset Acceptance as well as his reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1692k.

**COUNT THREE:**  
**VIOLATION OF 15 U.S.C. § 1692e(5)**

17. Plaintiff realleges and reincorporates all previous paragraphs as if fully set out herein.

18. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(5) by its actions, which include but are not limited threatening to take action that could not legally be taken.

19. As a result of these actions taken by Defendant, the Plaintiff has incurred actual

damages.

20. Plaintiff is therefore entitled to an award of actual and statutory damages against Asset Acceptance as well as his reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1692k.

**COUNT FIVE:  
VIOLATION OF 15 U.S.C. § 1692e(10)**

21. Plaintiff realleges and reincorporates all previous paragraphs as if fully set out herein.

22. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692e(10) by its actions, which include but are not limited to using false representation as a means to collect a debt.

23. As a result of these actions taken by Defendant the Plaintiff has incurred actual damages.

24. Plaintiff is therefore entitled to an award of actual and statutory damages against Asset Acceptance as well as his reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1692k.

**COUNT SIX:  
VIOLATION OF 15 U.S.C. § 1692f(1)**

25. Plaintiff realleges and reincorporates all previous paragraphs as if fully set out herein.

26. The Defendant violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692f(1) by its actions, which include but are not limited to collection of an amount that is not permitted by law.

27. As a result of these actions taken by Defendant, which include but are not limited to collection of amounts that exceeded the underlying judgment amount and/or which were not

authorized by statute, Plaintiff has incurred actual damages.

28. Plaintiff is therefore entitled to an award of actual and statutory damages against Asset Acceptance as well as his reasonable attorney's fees and costs, pursuant to 15 U.S.C. § 1692k.

WHEREFORE, your Plaintiff demands judgment for actual and statutory damages, attorneys' fees and costs, pursuant to the Fair Debt Collection Practices Act, and such other relief the Court deems just, equitable, and proper.

**TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,  
**JAMES DIEHL**

By   
Of Counsel

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